IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1890 OF 2006

Shyam Narayan Shukla ..Petitioner

Vs.

The State of Maharashtra & Ors. ..Respondents

Mr.Shekhar A.Ingawale for the petitioner

Mrs. A.S.Pai, A.P.P. for the state

CORAM : J.N.PATEL &
SMT.ROSHAN S.DALVI, JJ.

DATED : 18TH OCTOBER, 2006

P.C.:

1. Heard.

2. This petition can be disposed of at the stage of admission itself.

3. The petitioner challenges the impugned communication dt.23.7.06 and 14.8.06 issued by the Sr.P.I., Saki Naka Police Station, Mumbai under which the Sr.P.I. directed the petitioner to surrender fire arms as his licence to possess the

same has been cancelled.

4. It appears that thereafter the petitioner made a representation that the fire arms are kept at his native place and that he has sent his son to fetch the same so as to surrender it to the police station on 26.8.06. The petitioner wrote a letter to Sr.P.I. Saki Naka Police Station referring to his earlier correspondence and the order no. ALS-1204/C/Pole-9 dt. 14.9.05 and informed Sr.P.I. that he proposed to challenge the said order .

5. It is the case of the petitioner that he has a valid licence under the Arms Act for possessing rifle and revolver which by order dt.23.3.04 was cancelled by the competent authority under the Arms Act against which the petitioner preferred an appeal to the State u.s.18 of the Arms Act 1959 which was allowed by the Hon’ble Home Minister for State, Government of Maharashtra vide his order dt.18.8.04 and therefore, this direction on the part of the Sr.P.I. Saki Naka Police Station is illegal.

6. On the other hand, the learned A.P.P. after seeking instruction submitted that after the appeal of the petitioner was allowed, Government Circular has been issued to cancel the licence of persons against whom offence of serious nature are pending in the court of law and it is pursuant to the said circular that the petitioner was directed to deposit his weapons with the police station.

7. The learned A.P.P. submitted that the respondent state would resort to the procedure provided under the Arms Act to cancel the licence of the petitioner by issuing show cause notice to him on the basis of the Government Circular dt.14.9.05 and take action in accordance with law.

8. The impugned communication to the petitioner is not sustainable in law as a person who is holding a valid arms licence cannot be directed to deposit the weapons in the police station unless and until his licence is cancelled to possess fire arms in accordance with the Arms Act. Therefore, the impugned communication is quashed and set aside with liberty to the

respondent to take appropriate steps and cancel the licence of the petitioner if the petitioner is not found eligible to continue to hold arms licence and possess arms in the light of the Government Circular.

9. Petition disposed of accordingly.

(SHRI J.N. PATEL, J)

(SMT.ROSHAN DALVI, J)